An act relating to wireless communications while driving; amending s. 316.305, F.S.; revising legislative intent; requiring a law enforcement officer to inform a motor vehicle operator of certain rights; prohibiting certain actions by such officer; requiring such officer to record the race and ethnicity of a violator when issuing a citation; requiring law enforcement agencies to report such information to the Department of Highway Safety and Motor Vehicles; requiring the department to annually report certain data to the Governor and Legislature; removing the requirement that enforcement be accomplished as a secondary action; creating s. 316.306, F.S.; defining the term "wireless communications device"; providing legislative intent; prohibiting a person from operating a motor vehicle while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone; providing applicability; providing construction; authorizing a law enforcement officer during a specified period to stop motor vehicles to issue warnings to persons who are driving while using a wireless communications device in a handheld manner in a designated school crossing,
school zone, or work zone; providing for repeal of that authorization; authorizing a law enforcement officer, on and after a specified date, to stop motor vehicles and issue citations to persons who are driving while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone; providing exceptions to such prohibition; requiring a law enforcement officer who stops a motor vehicle for a violation of driving while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone to inform the motor vehicle operator of his or her right to decline a search of his or her wireless communications device; prohibiting the law enforcement officer from taking specified actions; requiring certain consent to search a motor vehicle operator's wireless communications device; providing that a user's billing records for a wireless communications device or the testimony of or written statements from certain authorities are admissible as evidence in crashes resulting in death or serious bodily injury for certain purposes; requiring that law enforcement officers indicate specified information in the uniform traffic citation; providing penalties for driving while using a wireless communications device.
in a handheld manner in a designated school crossing, school zone, or work zone; authorizing first-time offenders to participate in a wireless communications device driving safety program, in lieu of the imposition of penalties; authorizing a clerk of the court to dismiss a case and assess court costs under certain circumstances; requiring the deposit of fines into the Emergency Medical Services Trust Fund of the Department of Health; requiring law enforcement officers to record the race and ethnicity of violators when issuing a citation for a violation of this section; requiring all law enforcement agencies to maintain such information and report it to the Department of Highway Safety and Motor Vehicles in a form and manner determined by the department; beginning on a specified date, requiring the department to annually report the data to the Governor and Legislature; providing requirements for the report; authorizing the department, in consultation with the Department of Transportation, to implement a statewide campaign to raise awareness of and encourage compliance with the prohibitions on operating a motor vehicle while using a wireless communications device; authorizing the department to use certain messaging to implement the campaign; authorizing the department to
contract with certain entities for certain purposes;
providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (2) and subsections
(3) and (5) of section 316.305, Florida Statutes, are amended to
read:

316.305 Wireless communications devices; prohibition.—
(2) It is the intent of the Legislature to:
(d) Authorize law enforcement officers to stop motor
vehicles and issue citations as a secondary offense to persons
who are texting while driving.
(3)(a) A person may not operate a motor vehicle while
manually typing or entering multiple letters, numbers, symbols,
or other characters into a wireless communications device or
while sending or reading data on such a device for the purpose
of nonvoice interpersonal communication, including, but not
limited to, communication methods known as texting, e-mailing,
and instant messaging. As used in this section, the term
"wireless communications device" means any handheld device used
or capable of being used in a handheld manner, that is designed
or intended to receive or transmit text or character-based
messages, access or store data, or connect to the Internet or
any communications service as defined in s. 812.15 and that

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allows text communications. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

   a. Related to the operation or navigation of the motor vehicle;

   b. Safety-related information, including emergency, traffic, or weather alerts;

   c. Data used primarily by the motor vehicle; or

   d. Radio broadcasts.

4. Using a device or system for navigation purposes.

5. Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.

6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate,
7. Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.

(c) A law enforcement officer who stops a motor vehicle for a violation of paragraph (a) must inform the motor vehicle operator of his or her right to decline a search of his or her wireless communications device and may not:

1. Access the wireless communications device without a warrant.

2. Confiscate the wireless communications device while awaiting issuance of a warrant to access such device.

3. Obtain consent from the motor vehicle operator to search his or her wireless communications device through coercion or other improper method. Consent to search a motor vehicle operator's wireless communications device must be voluntary and unequivocal.

(d) Only in the event of a crash resulting in death or personal injury, a user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence in any proceeding to determine whether a violation of paragraph (a) has been committed.

(5) When a law enforcement officer issues a citation for a violation of this section, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement officers must
enforcement agencies must maintain such information and report
the information to the department in a form and manner
determined by the department. Beginning February 1, 2020, the
department shall annually report the data collected under this
subsection to the Governor, the President of the Senate, and the
Speaker of the House of Representatives. The data collected must
be reported at least by statewide totals for local law
enforcement agencies, state law enforcement agencies, and state
university law enforcement agencies. The statewide total for
local law enforcement agencies shall combine the data for the
county sheriffs and the municipal law enforcement agencies.

Enforcement of this section by state or local law enforcement
agencies must be accomplished only as a secondary action when an
operator of a motor vehicle has been detained for a suspected
violation of another provision of this chapter, chapter 320, or
chapter 322.

Section 2. Effective October 1, 2019, section 316.306, Florida Statutes, is created to read:

316.306 School and work zones; prohibition on the use of a wireless communications device in a handheld manner.—

(1) For purposes of this section, the term "wireless communications device" has the same meaning as provided in s. 316.305(3)(a). The term includes, but is not limited to, a cell phone, a tablet, a laptop, a two-way messaging device, or an electronic game that is used or capable of being used in a
handheld manner. The term does not include a safety, security, or convenience feature built into a motor vehicle which does not require the use of a handheld device.

(2) It is the intent of the Legislature to:

(a) Improve roadway safety in school and work zones for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.

(b) Prevent crashes related to the act of driving while using a wireless communications device in a handheld manner when operating a motor vehicle while the vehicle is in motion.

(c) Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.

(d) Authorize law enforcement officers to stop motor vehicles and issue citations to persons who are driving in school or work zones while using a wireless communications device in a handheld manner as provided in subsection (3).

(3)(a)1. A person may not operate a motor vehicle while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone area as defined in s. 316.003(101). This subparagraph shall only be applicable to work zone areas if construction personnel are present or are operating equipment on the road or immediately adjacent to the work zone area. For the purposes of this paragraph, a motor vehicle that is stationary is not being
operated and is not subject to the prohibition in this paragraph.

2.a. During the period from October 1, 2019, through December 31, 2019, a law enforcement officer may stop motor vehicles to issue verbal or written warnings to persons who are in violation of subparagraph (a)1. for the purposes of informing and educating such persons of this section. This sub-subparagraph shall stand repealed on October 1, 2020.

b. Effective January 1, 2020, a law enforcement officer may stop motor vehicles and issue citations to persons who are driving while using a wireless communications device in a handheld manner in violation of subparagraph (a)1.

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

   a. Related to the operation or navigation of the motor vehicle;

   b. Safety-related information, including emergency, traffic, or weather alerts;
c. Data used primarily by the motor vehicle; or
d. Radio broadcasts.

4. Using a device or system in a hands-free manner for
navigation purposes.

5. Using a wireless communications device hands-free or
hands-free in voice-operated mode, including, but not limited
to, a factory-installed or after-market Bluetooth device.

6. Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.

(c) A law enforcement officer who stops a motor vehicle
for a violation of paragraph (a) must inform the motor vehicle
operator of his or her right to decline a search of his or her
wireless communications device and may not:

1. Access the wireless communications device without a
warrant.

2. Confiscate the wireless communications device while
awaiting issuance of a warrant to access such device.

3. Obtain consent from the motor vehicle operator to
search his or her wireless communications device through
coercion or other improper method. Consent to search a motor
vehicle operator's wireless communications device must be
voluntary and unequivocal.

(d) Only in the event of a crash resulting in death or
serious bodily injury, as defined in s. 316.027, may a user's
billing records for a wireless communications device, or the
testimony of or written statements from appropriate authorities receiving such messages, be admissible as evidence in any proceedings to determine whether a violation of subparagraph (a)1. has been committed.

(e) Law enforcement officers must indicate the type of wireless communications device in the comment section of the uniform traffic citation.

(4)(a) Any person who violates this section commits a noncriminal traffic infraction, punishable as a moving violation, as provided in chapter 318, and shall have 3 points assessed against his or her driver license as set forth in s. 322.27(3)(d)7. For a first offense under this section, in lieu of the penalty specified in s. 318.18 and the assessment of points, a person who violates this section may elect to participate in a wireless communications device driving safety program approved by the Department of Highway Safety and Motor Vehicles. Upon completion of such program, the penalty specified in s. 318.18 and associated costs may be waived by the clerk of the court and the assessment of points must be waived.

(b) The clerk of the court may dismiss a case and assess court costs in accordance with s. 318.18(11)(a) for a nonmoving traffic infraction for a person who is cited for a first time violation of this section if the person shows the clerk proof of purchase of equipment that enables his or her personal wireless communications device to be used in a hands-free manner.
(5) Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations of this section must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health.

(6) When a law enforcement officer issues a citation for a violation of this section, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and must report such information to the department in a form and manner determined by the department. Beginning February 1, 2020, the department shall annually report the data collected under this subsection to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The data collected must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies must combine the data for the county sheriffs and the municipal law enforcement agencies.

Section 3. (1) The Department of Highway Safety and Motor Vehicles, in consultation with the Department of Transportation, may implement a statewide campaign to raise awareness of and encourage compliance with ss. 316.305 and 316.306, Florida Statutes. The Department of Highway Safety and Motor Vehicles may use television messaging, radio broadcasts, print media,
digital strategies, social media, and any other form of messaging deemed necessary and appropriate by the department to implement the campaign.

(2) The Department of Highway Safety and Motor Vehicles may contract with counties, local law enforcement agencies, safety councils, and public schools to assist with planning and conducting the statewide campaign.

Section 4. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019.